
By: **Senators Pinsky, Hollinger, Britt, Currie, Dyson, Exum, Forehand,
Frosh, Gladden, Grosfeld, Kelley, Kramer, and Ruben**

Introduced and read first time: February 6, 2004

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Student Health Promotion Act of 2004**

3 FOR the purpose of requiring certain county boards of education to include certain
4 information in certain health instruction; requiring the State Board of
5 Education to enhance certain programs of physical education by developing
6 certain criteria and a certain certification process; prohibiting vending machines
7 in certain schools; prohibiting the operation of vending machines in certain
8 schools until certain times; requiring certain public schools to install certain
9 devices; providing for the application of certain provisions of this Act; requiring
10 the State Board to adopt and disseminate a certain policy; requiring certain
11 county boards to develop and implement certain policies relating to vending
12 machines in public schools; requiring certain county boards to submit certain
13 policies to the State Board on or before a certain date; defining a certain term;
14 providing for the effective date of this Act; and generally relating to physical
15 education and vending machines in public schools.

16 BY repealing and reenacting, with amendments,
17 Article - Education
18 Section 7-401(a)
19 Annotated Code of Maryland
20 (2001 Replacement Volume and 2003 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article - Education
23 Section 7-409
24 Annotated Code of Maryland
25 (2001 Replacement Volume and 2003 Supplement)

26 BY adding to
27 Article - Education
28 Section 7-409.1; and 7-1201 through 7-1203 to be under the new subtitle
29 "Subtitle 12. Vending Machines in Public Schools"
30 Annotated Code of Maryland

1 (2001 Replacement Volume and 2003 Supplement)

2 Preamble

3 WHEREAS, Treating obesity in the United States last year cost approximately
4 \$75,000,000,000 and accounted for more than 300,000 deaths; and

5 WHEREAS, Nonfatal but debilitating effects of obesity include respiratory
6 difficulty, high cholesterol, high blood pressure, chronic musculoskeletal problems,
7 skin problems, and infertility; and

8 WHEREAS, Potentially life-threatening effects of obesity include
9 cardiovascular disease including hypertension and stroke, conditions associated with
10 insulin resistance such as type 2 diabetes mellitus, breast cancer, colon cancer, and
11 gallbladder disease; and

12 WHEREAS, The Centers for Disease Control and Prevention estimate that
13 61% of Americans are overweight; and

14 WHEREAS, According to the United States Surgeon General, in the last 20
15 years the number of overweight children has doubled and the number of overweight
16 adolescents has tripled; and

17 WHEREAS, The Centers for Disease Control and Prevention report that of
18 children and adolescents aged 6 to 19 years, 15% (approximately 9,000,000 young
19 people) are overweight; and

20 WHEREAS, The causes of obesity have been linked to an increasing
21 consumption of high-caloric processed foods with high levels of saturated fats and
22 sugars combined with a decreasing amount of physical activity; and

23 WHEREAS, The American Academy of Pediatrics reports that a high intake of
24 sweetened drinks may result in obesity in addition to a calcium deficiency with an
25 associated risk of osteoporosis, fractures, and dental problems including enamel
26 erosion; and

27 WHEREAS, Throughout the school day, students are consuming low-nutrient
28 foods purchased from vending machines at school, a trend that has been accelerated
29 by the pervasive advertising by snack food and beverage companies in schools; now,
30 therefore,

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
32 MARYLAND, That the Laws of Maryland read as follows:

33 **Article - Education**

34 7-401.

35 (a) With the assistance of the county health department, each county board
36 shall provide:

- 1 (1) Adequate school health services;
- 2 (2) Instruction in health education, INCLUDING THE IMPORTANCE OF
3 PHYSICAL ACTIVITY IN MAINTAINING GOOD HEALTH; and
- 4 (3) A healthful school environment.

5 7-409.

6 Each public school shall have a program of physical education that is given in a
7 planned and sequential manner to all students, kindergarten through grade 12, to
8 develop their good health and physical fitness and improve their motor coordination
9 and physical skills.

10 7-409.1.

11 THE STATE BOARD SHALL ENHANCE PROGRAMS OF PHYSICAL EDUCATION
12 ADMINISTERED UNDER § 7-409 OF THIS SUBTITLE BY:

13 (1) DEVELOPING CRITERIA FOR A PROGRAM OF PHYSICAL FITNESS
14 THAT INCLUDES A BROAD RANGE OF PHYSICAL ACTIVITIES THAT TAKE PLACE ON
15 AND OFF SCHOOL GROUNDS; AND

16 (2) DEVELOPING A CERTIFICATION PROCESS FOR STUDENTS WHO MEET
17 THE CRITERIA ESTABLISHED UNDER ITEM (1) OF THIS SECTION.

18 SUBTITLE 12. VENDING MACHINES IN PUBLIC SCHOOLS.

19 7-1201.

20 IN THIS SUBTITLE, "FOOD OF MINIMAL NUTRITIONAL VALUE" HAS THE
21 MEANING STATED IN REGULATIONS FOR THE NATIONAL SCHOOL LUNCH PROGRAM
22 ADOPTED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE, UNDER 7 C.F.R.
23 210.11(A)(2).

24 7-1202.

25 (A) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, VENDING
26 MACHINES ARE PROHIBITED IN PUBLIC ELEMENTARY SCHOOLS.

27 (B) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, VENDING
28 MACHINES MAY NOT BE OPERATED:

29 (1) IN PUBLIC MIDDLE SCHOOLS FROM 12:01 A.M. UNTIL THE END OF
30 THE LAST CLASS; AND

31 (2) IN PUBLIC HIGH SCHOOLS FROM 12:01 A.M. UNTIL THE END OF THE
32 LAST LUNCH PERIOD.

33 (C) EACH PUBLIC SCHOOL SHALL INSTALL AND USE A TIMING DEVICE ON
34 EACH VENDING MACHINE TO AUTOMATICALLY PROHIBIT OR PERMIT ACCESS TO

1 VENDING MACHINES IN ACCORDANCE WITH SUBSECTIONS (A) AND (B) OF THIS
2 SECTION.

3 (D) THIS SECTION DOES NOT APPLY TO VENDING MACHINES LOCATED IN
4 AREAS OF A PUBLIC SCHOOL SUCH AS A TEACHER'S LOUNGE TO WHICH STUDENTS
5 DO NOT HAVE PERMISSIBLE ACCESS.

6 7-1203.

7 (A) ON OR BEFORE DECEMBER 31, 2004, THE STATE BOARD SHALL ADOPT AND
8 DISSEMINATE A MODEL POLICY REGARDING VENDING MACHINES TO ASSIST A
9 COUNTY BOARD IN IMPLEMENTING THE REQUIREMENTS OF SUBSECTION (B) OF THIS
10 SECTION.

11 (B) EACH COUNTY BOARD SHALL DEVELOP AND IMPLEMENT A POLICY
12 REGARDING VENDING MACHINES THAT INCLUDES:

13 (1) REQUIRING THE MAINTENANCE OF A BALANCE BETWEEN FOODS OF
14 MINIMAL NUTRITIONAL VALUE AND OTHER FOODS AND DRINKS IN VENDING
15 MACHINES;

16 (2) REQUIRING EACH SCHOOL TO KEEP RECORDS OF THE PROCEEDS
17 COLLECTED FROM THE SALE OF PRODUCTS IN VENDING MACHINES AND THE
18 EXPENDITURES MADE USING THESE PROCEEDS;

19 (3) REQUIRING EACH CONTRACT THAT A SCHOOL ENTERS INTO WITH A
20 VENDOR FOR VENDING MACHINES AND PRODUCTS SOLD IN VENDING MACHINES TO
21 BE SUBMITTED TO THE COUNTY BOARD FOR REVIEW;

22 (4) CREATING A PROCEDURE THAT ALLOWS EACH CONTRACT THAT A
23 SCHOOL ENTERS INTO WITH A VENDOR FOR VENDING MACHINES AND PRODUCTS
24 SOLD IN VENDING MACHINES TO BE AVAILABLE FOR PUBLIC REVIEW;

25 (5) PROHIBITING CONTRACTS FOR VENDING MACHINES AND PRODUCTS
26 SOLD IN VENDING MACHINES FROM EXCEEDING A TERM OF 3 YEARS;

27 (6) PROHIBITING A SCHOOL FROM RENEWING AN EXISTING CONTRACT
28 OR ENTERING INTO A NEW CONTRACT IF THE SCHOOL:

29 (I) VIOLATES A COUNTY BOARD'S POLICY REGARDING VENDING
30 MACHINE ACCESS BY STUDENTS; OR

31 (II) FAILS TO SUBMIT THE CONTRACT TO THE COUNTY BOARD FOR
32 REVIEW;

33 (7) ENCOURAGING A REDUCTION IN STUDENT CONSUMPTION OF FOODS
34 OF MINIMAL NUTRITIONAL VALUE ON SCHOOL PREMISES; AND

1 (8) PROHIBITING ANY PROVISION OF A CONTRACT THAT PROHIBITS
2 EMPLOYEES AND STUDENTS FROM DISPARAGING THE GOODS OR SERVICES OF THE
3 PARTY CONTRACTING WITH THE SCHOOL.

4 (C) ON OR BEFORE JULY 1, 2005, EACH COUNTY BOARD SHALL SUBMIT ITS
5 VENDING MACHINE POLICY TO THE STATE BOARD.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
7 effect August 1, 2004.